

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC SAFETY**

**Call to Order:** By **CHAIRMAN STANLEY (STAN) FISHER**, on February 5, 2003 at 8:05 A.M., in Room 317-A Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Stanley (Stan) Fisher, Chairman (R)  
Sen. Keith Bales (R)  
Rep. Tim Callahan (D)  
Rep. Carol C. Juneau (D)  
Sen. Trudi Schmidt (D)

**Members Excused:** Sen. Corey Stapleton, Vice Chairman (R)  
Rep. Dave Lewis (R)

**Members Absent:** None.

**Staff Present:** Marian Collins, Committee Secretary  
Brent Doig, OBPP  
Todd Younkin, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp for these minutes appears at the beginning of the content it refers to.

**Committee Business Summary:**

Hearing & Date Posted: Department of Labor & Industry  
Public Hearing, 1/30/2003  
Executive Action: None

**{Tape: 1; Side: A; Approx. Time Counter: 0.5 - 5.1}**

**Tammy Peterson, Administrator, Centralized Services Division (CSD)**, presented a fact sheet concerning the Commissioner's budget and the Centralized Services Division budget. **Ms. Peterson** also gave an overview of the Division. On the back of Exhibit 1, budget cuts are listed identifying how they will impact the Human Rights Division. **Ms. Peterson** stated that, if the cuts are implemented, it will mean that 29% of the caseload in the Hearings Bureau right now would move to District Court, and there would be a reduction of .5 FTE that would no longer be devoted to human rights cases. **Ms. Peterson** also stated that, as a result of these cuts, it is anticipated that employers would be forced to defend claims under two forums. Additional costs would be incurred in the District Court as well as increased costs to both employers and employees to litigate their cases.

**Ms. Peterson** stated that the second budget issue is DP 11 regarding an operating increase. A correction to this decision package is listed on the back of Exhibit 1. The increase in personal services is to cover an attorney position that was filled at a higher-than-entry level. The Department has experienced difficulty in retaining and recruiting qualified staff attorneys. Having the flexibility to offer higher-than-entry level under the current state plan has given CSD a more successful factor in keeping attorneys in the Department.

CSD is also asking for approval of their proprietary rates which fund internal services that are provided to the rest of the Department, such as accounting and budgeting.

**EXHIBIT (jch25a01)**

**{Tape: 1; Side: A; Approx. Time Counter: 5.5 - 8.2}**

**CHAIRMAN FISHER** asked Todd Younkin, Legislative Services Division, to explain his concerns about DP 11. **Mr. Younkin** stated that the Commissioner's Office operates primarily from a proprietary fund which is an internal service fund in the Department where the Commissioner's Office and Centralized Services Division charge indirect costs out to the other divisions for services provided. Part of House Bill 2 appropriations needs to be an increase to accommodate the Department's proposed increase to the proprietary rate. The increase to the indirect charges will allow the Commissioner's Office and Centralized Services Division increased authority to pay the indirect charges that go back into that proprietary account. The proprietary account is a separate decision in which

this Subcommittee will have to vote on and approve the rates that are being requested by the Department. If those rates are accepted, then each Division will need increased authority to be able to pay those indirect charges back into the central account. The proprietary account is a way for the Department of Labor and Industry (DOLI) to centralize a lot of its functions such as accounting, budgeting, personnel management, and allow them to equally assess each Division within the Department.

***{Tape: 1; Side: A; Approx. Time Counter: 8.2 - 9.5}***

**REP. JUNEAU** asked for clarification of the correction on Page D-130. **Mr. Yunkin** stated that under the explanation for DP 11, Miscellaneous Operating Increase, the Subcommittee should cross out \$19,000 and insert \$7,744 each year; and where there is \$12,000 each year for increases to the cost allocation plans, \$23,459 and \$23,554 should be inserted.

***{Tape: 1; Side: A; Approx. Time Counter: 9.6 - 12.3}***

**Ms. Peterson** stated that the operating expense requests of \$23,459 for FY 2004 and \$23,554 for FY 2005 are state special or federal funds. The \$7,744 request is for an attorney. The attorney will work in the Office of Legal Services as well as in the human rights area. Therefore, the position will be paid with both general fund and federal fund.

***{Tape: 1; Side: A; Approx. Time Counter: 14 - 30.2}***

**Jim Brown, Administrator, Business Standards Division**, presented the Subcommittee with handouts identifying services provided by each of the Bureaus within the Division. Overviews of each Bureau are listed on Pages 3-6 of Exhibit 2.

The Business Standards Division is entirely supported by state and special revenue funds derived from permit, certificate and license fees. It receives no general fund.

**Mr. Brown** stated that the intent of transferring of the Weights and Measures Bureau, and Business Occupation and Building Codes from the Department of Commerce to the Department of Labor was to preserve the Department of Commerce as a business promotion and attraction agency for Montana. There were several regulatory programs that were moved to other agencies. **Mr. Brown** stated that the move is working very well and that there is great support for the programs within the Department of Labor.

**EXHIBIT (jch25a02)**

***{Tape: 1; Side: B; Approx. Time Counter: 9.3 - 12}***

**Ingrid Childress, Administrator, Work Force Services Division,** stated that the entry level apprenticeship/supervisor ratio requirement in the Apprenticeship and Training Program is not statutory. In the last year, a Rule Setting Advisory Council helped set administrative rules regarding ratios and waivers-to-ratios, and what can be recognized as a supervisor in the field. Employers provided some compromises to the Advisory Council in order to allow flexibility and ensure that apprentices are adequately supervised, but allows for less supervision for 4th-year apprentices than new apprentices.

***{Tape: 1; Side: B; Approx. Time Counter: 15.7 - 16.4}***

**Mr. Younkin** stated that the Business Standards Division is requesting authority to spend the income should the need for the expenditures arise. If the Division doesn't increase their rates and the fund balance will not let them spend, they won't spend. The funds will not carry over into the base.

***{Tape: 1; Side: B; Approx. Time Counter: 17.3 - 20}***

**Mr. Brown** stated that on building codes, for example, when a project is created, the first thing they do when they submit their plans for review and approval by the Building Codes Bureau is submit a building permit fee. When those plans are approved, they are sent a building permit which acts as a contract. When the building inspectors are in that area they do a periodic inspection of construction. The same process applies to electrical permits, plumbing permits, and mechanical permits. That revenue pays for field-located inspectors to provide the necessary inspections to assure that construction is in accordance with the approved plans and building codes. With respect to boilers and elevators, those fees are generated by inspections conducted annually.

***{Tape: 1; Side: B; Approx. Time Counter: 26.5 - 30.5}***

***{Tape: 2; Side: A; Approx. Time Counter: 0.2 - 13.8}***

**Steve Nelson, Executive Director, Office of Community Service,** provided the Subcommittee with an annual report on the Montana Commission on Community Service. He also presented a fact sheet summarizing what programs and services are offered, such as training and technical assistance, sponsorship of the annual Governor's Conference on Civic Engagement, the Governor's Awards for Civic Engagement, and AmeriCorps Grants. Four areas that have seen significant results because of community service are

education, natural resources, human needs, and public safety. The new initiatives proposed by the Commission are strengthening the connections between faith and community-based agencies, as well as working with the Disaster and Emergency Services to create a Homeland Security Citizens Corps.

**Mr. Nelson** stated that, in recent years, there have been a number of studies that talked about civic engagement in American society. There are young people willing to pick up a shovel and do day-to-day work, but those individuals are frequently not so willing to become involved in the political process. One of the things being discussed by the Commission is, "What are we doing to ensure that there's a generation coming up that's going to replace the current legislative body?" One of the ways the Commission is answering that question is the AmeriCorps programs. There are currently thousands of alumni around the state that have gone through the program. Surveys show that those individuals are more actively involved in their communities, civic life and groups. The Commission feels these individuals are providing role models for the rest of the community. The service learning programs involve working with the secondary educational institutions to ensure that young people understand civic life and their responsibilities. The work with the nonprofit community is another arena where the Commission is hoping to grow and expand involvement of all Montana citizens.

**EXHIBIT(jch25a03)**

**{Tape: 2; Side: A; Approx. Time Counter: 14.9 - 30.8}**

**REP. CALLAHAN** asked Mr. Nelson about whether there were funds available for kids who do community service work to earn money to repay victims. **Mr. Nelson** stated that there isn't a program currently available within the Commission that can provide that arrangement; funding such as that can be organized in local communities.

**CHAIRMAN FISHER** asked if the Commission is working on any Reservations other than the Blackfeet Reservation. **Mr. Nelson** stated that the Blackfeet Program is an ongoing established AmeriCorps program. The Montana Conservation Corps (MCC) had a program with Glacier Park wherein crews of young people were brought into the Park to work during the summer. In 2002, the MCC did a self-help housing program in the Dayton area where they worked with members of the community and constructed ten homes in six months.

**CHAIRMAN FISHER** asked how someone goes about securing help with a project. **Mr. Nelson** stated that any nonprofit or governmental entity can contact any one of the programs within the Commission. A cash match is required from the requesting entity to pay for the crew to come in for a particular project.

*{Tape: 2; Side: B; Approx. Time Counter: 4.4 - 19.3}*

**Judge Mike McCarter, Workers' Compensation Court (WCC)**, presented the Subcommittee with handouts specific to the WCC dealing with the number of petitions received, the number of trials and hearings, the number of decisions issued, and the number of settlement conferences deciding cases.

**Judge McCarter** gave an overview of the WCC and stated that the Court does some judicial review of decisions out of the Department of Labor, but is primarily a trial court and hears all workers' compensation and occupational disease cases, as well as independent contractor disputes after they're initially determined by the Department of Labor. The jurisdiction is statewide; there is only one Workers' Compensation judge who covers the entire state. The WCC is approximately the same level as a District Court; appeals from Judge McCarter's decisions go directly to the Montana Supreme Court.

WCC does not receive any general funds; WCC is funded through the workers' compensation assessment (employers and insurers). Over the past nine years, the Court eliminated two employees despite the workload being greater. **Judge McCarter** stated that operating expenses are primarily personal services. A number of WCC expenses are fixed; however the variables in expenses are for court reporters and travel, which are driven by the number and length of trials. **Judge McCarter** stated that it is essential to preserve the present budget. Decision Package (DP) 14 is addressed on handout 3 of Exhibit 4. DP 14 is basically a contingency fund, and is similar to the Decision Packages that have been presented to the previous four Legislatures. The DP's have been approved, and if the money is not needed it will revert back.

**EXHIBIT** (jch25a04)

**ADJOURNMENT**

Adjournment: 10 A.M.

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REP. STANLEY (STAN) FISHER, Chairman

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MARIAN COLLINS, Secretary

SF/MC

**EXHIBIT** (jch25aad)